

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| | | |
|---------------------------------|---|------------------------------|
| JAMIE MCVICKER, |) | |
| |) | CIVIL ACTION NO. 3:20-cv-140 |
| Plaintiff, |) | |
| |) | JUDGE KIM R. GIBSON |
| v. |) | |
| |) | |
| GREGORY BRIGGS, <i>et al.</i> , |) | |
| |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM ORDER

This matter is before Magistrate Judge Maureen P. Kelly for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636, and Local Civil Rule 72.

By way of background, on July 9, 2021, the Magistrate Judge issued a Report and Recommendation regarding a Motion to Dismiss. (ECF No. 36). On July 23, 2021, Defendants submitted their Objections to that Report and Recommendation. (ECF No. 37). On August 17, 2021, Plaintiff Jamie McVicker filed his “Response to Defendants’ Objections to Report and Recommendation.” (ECF No. 39). As part of his Response, Mr. McVicker requested a Preliminary Injunction. (*Id.* at 6–10). Pursuant to this Court’s Order adopting the Magistrate Judge’s Report and Recommendation regarding the Motion to Dismiss, (ECF No. 40 at 3), Mr. McVicker’s request for a Preliminary Injunction was docketed as a separate “Motion for Preliminary Injunction.” (ECF No. 41). It is that Motion for a Preliminary Injunction (*id.*) that is the subject of this Memorandum Order.

On November 1, 2021, the Magistrate Judge issued a Report and Recommendation, recommending that the Court deny Mr. McVicker’s Motion for a Preliminary Injunction. (ECF

No. 46 at 5). The Magistrate Judge informed the parties that, in accordance with the Magistrate Judges Act, 28 U.S.C. Section 636(b)(1), and Local Rule 72.D.2, they were permitted to file written objections “in accordance with the schedule established in the docket entry reflecting the filing of this Report and Recommendation.” (*Id.*). Further, the Magistrate Judge noted that the failure “to timely file objections will waive the right to appeal.” (*Id.*).

On November 12, 2021, Mr. McVicker filed a “Motion in Response to Defendant’s Brief in Opposition to Plaintiff’s Motion for Injunctive Relief and Motion to Amend Complaint.” (ECF No. 48). Because Mr. McVicker’s Motion came after the Magistrate Judge issued her Report and Recommendation, and because Mr. McVicker is proceeding *pro se*, the Court will construe his filing as objections to the Magistrate Judge’s Report and Recommendation. So construed, Mr. McVicker filed his objections in a timely manner. (ECF Nos. 46, 48).

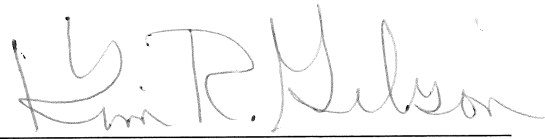
The Court has reviewed Mr. McVicker’s objections (ECF No. 48) and finds them meritless.

Therefore, upon *de novo* review of the record in this matter, the Report and Recommendation, and Mr. McVicker’s Objections, the following order is entered:

AND NOW, this 4th day of April, 2022, **IT IS HEREBY ORDERED** that Mr. McVicker’s Motion for a Preliminary Injunction (ECF No. 41) is **DENIED** as stated in the Report and Recommendation.

IT IS FURTHER ORDERED that the Court adopts the Report and Recommendation (ECF No. 46) as the opinion of this Court.

BY THE COURT:

A handwritten signature in black ink, reading "Kim R. Gibson", written over a horizontal line.

**KIM R. GIBSON
UNITED STATES DISTRICT JUDGE**

Notice to by U.S. Mail to:

Jamie McVicker
NM-1576
SCI Houtzdale
209 Institution Drive
Houtzdale, PA 16698-1000